

OCTOBER 1998 (COMPLIANCE CERTIFICATE)

*** CALIFORNIA UNDERGROUND STORAGE TANK RULEMAKING FILE**

*** CHAPTER 16, CHAPTER 3, TITLE 23**

*** AMENDMENTS TO SECTIONS 2611 - 2712.6**

Memorandum

To: Agency Regulation Coordinator

Date : 02/10/00

File # : 98-1020-01E

Phone : 323-6225

From: OAL Front Counter

Subject: **RETURN OF APPROVED RULEMAKING MATERIALS**

OAL hereby returns this approved rulemaking file your agency submitted for our review.

Included with this approved file is a copy of the regulation(s) stamped "ENDORSED FILED" by the Secretary of State.

The effective date of an approved file is specified on the Form 400 (see item B.4) Note: The 30th Day after filing with the Secretary of State is calculated from the date the Form 400 was stamped "ENDORSED FILED" by the Secretary of State.

DO NOT DISCARD OR DESTROY THIS FILE

Due to its legal significance, please retain this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code Section 11347.3(e) further provides that "...no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq.) regarding retention of your records. If you decide not to keep this rulemaking record at your agency office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f)

enclosures

EMERGENCY

See instructions on reverse)

For use by Secretary of State only

0 (REV. 3-92) FMC



NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

98-1020-01E

For use by Office of Administrative Law (OAL) only

ENDORSED
APPROVED FOR FILING
AND PUBLICATION

OCT 27 1998

Office of Administrative Law

98 OCT 20 AM 3:39

OFFICE OF
ADMINISTRATIVE LAW

98 OCT 27 PH 3:55

SECRETARY OF STATE

AGENCY

NOTICE

REGULATIONS

AGENCY FILE NUMBER (if any)

State Water Resources Control Board

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE

TITLE(S)

FIRST SECTION AFFECTED

2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE

Notice re Proposed

Regulatory Action



Other

4. AGENCY CONTACT PERSON

TELEPHONE NUMBER

CALUSE
ONLY

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS
AFFECTED

ADOPT

Sections 2712.1 through 2712.6

AMEND

Sections 2611, 2712

TITLE(S)

23

REPEAL

2. TYPE OF FILING



Regular Rulemaking (Gov. Code, § 11346)



Resubmittal



Emergency (Gov. Code, § 11346.1(b))



Resubmittal of disapproved or withdrawn emergency filing



Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.



Print Only



Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)



Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)



Effective 30th day after filing with Secretary of State



Effective on filing with Secretary of State



Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY



Department of Finance (Form STD. 399)



Fair Political Practices Commission



State Fire Marshal



Other (Specify)

6. CONTACT PERSON

Barbara Wightman

TELEPHONE NUMBER

(916) 227-4318

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Walt Pettit

DATE

8/26/98

TYPED NAME AND TITLE OF SIGNATORY

Walt Pettit, Executive Director

EMERGENCY RULEMAKING
Title 23, Division 3, Chapter 16, Articles 1 and 10
California Code of Regulations
Underground Storage Tank Regulations

Text of Emergency Regulations

*All handwritten changes were made pursuant to agency's authorization
PMM
10-27-98*

Article 1. Definitions

§ 2611 "Upgrade compliance certificate" includes a numbered decal, file copy of the decal, and plastic fill pipe tag as described in Section 2712.1 of these regulations.

Authority: Health and Safety Code 25299.3, 25299.7

Reference: Health and Safety Code ~~25281, 25282, 25284, 25292.3, 25299.5(a), 40~~
CFR 280.10, 280.12 *25283,*

Article 10. Permit Application, Quarterly Report and Trade Secret Request Requirements

§ 2712 Permit Conditions

- (c) A permit to operate issued by the local agency shall be effective for five ~~5~~ years. In addition to other information specified by the local agency, the permit shall include the permit expiration date, monitoring requirements, and the state underground storage tank identification number(s) for which the permit was issued. Where a facility contains petroleum underground storage tanks meeting the upgrade requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 of the Health and Safety Code, the permit shall include an upgrade compliance certificate. Before a local agency issues a new permit or renewal to operate an underground storage tank, the local agency shall inspect the underground storage tank and determine that it complies with the provisions of these regulations.

Authority: Health and Safety Code 25299.3, 25299.7

Reference: Health and Safety Code ~~25284, 25285, 25286, 25288, 25289, 25292.3, 25293, 25294, 40 CFR 280.31(d), 280.33(f), 280.45, 281.32(e)~~
and and

§ 2712.1 Content of Upgrade Compliance Certificates

- (a) An upgrade compliance certificate includes one decal as described in subdivision (b), one file copy of the decal as described in subdivision (c), and one tag for each tank storing petroleum as described in subdivision (d) of this section.

- (b) A decal shall have an adhesive-backing and shall be 5 inches wide by 8 inches long containing:
- (1) a graphic comprised of a blue background, solid white symbol in the shape of the State of California, and wavy blue lines depicting water;
 - (2) the words, "Underground Storage Tank Facility Upgrade Compliance Certificate;"
 - (3) the statement, "This upgrade compliance certificate is issued pursuant to Chapter 6.7, Section 25284 (e), California Health and Safety Code;"
 - (4) a certificate number affixed mechanically at the time of production;
- (c) A file copy shall be paper, 8 1/2 inches wide by 11 inches long, and shall contain:
- (1) in the upper right corner, a ^{certificate} number affixed at the time of production;
 - (2) an unnumbered, black and white facsimile of an upgrade compliance certificate;
 - (3) instructions to the local agency to enter the name of the owner, and facility; street address, city, and zip code of facility; facility identification number; name of issuing agency; and date of issue.
- (d) A tag shall be 3 15/16 inches long by 2 inches wide made of plastic. It shall bear a facsimile of an unnumbered decal on both sides and contain the words, "CALIFORNIA UST UPGRADE."

Authority: Health and Safety Code 25299.3, ~~25299.7~~

Reference: Health and Safety Code 25284, 25292.3

§ 2712.2 Issuing Upgrade Compliance Certificates

- (a) The Board shall provide decals, file copies, tags, and nylon straps to local agencies for issuance to underground storage tank facilities.
- (b) Local agencies shall issue one decal to the owner or operator of each underground storage tank facility containing one or more petroleum underground storage tanks meeting the requirements of Section 25291

or subdivisions (d) and (e) of Section 25292 of the Health and Safety Code.

- (c) Local agencies shall issue one matching file copy of the decal to the owner or operator.
- (d) Local agencies shall issue one tag for each petroleum underground storage tank meeting the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 of the Health and Safety Code, to the owner or operator.
- (e) Local agencies shall issue one locking nylon strap, 18 inches long, for each tag issued. The strap shall be imprinted with the words, "CALIFORNIA UST UPGRADE."

Authority: Health and Safety Code 25299.3, ~~25299.7~~

Reference: Health and Safety Code 25284, 25292.3

§ 2712.3 Displaying Upgrade Compliance Certificates

- (a) A decal shall be displayed at the facility in a location visible to the person delivering petroleum to an underground storage tank.
- (b) A tag shall be displayed on the fill pipe of each underground storage tank. It shall be attached using a nylon strap described in Section 2712.2
(e).

Authority: Health and Safety Code 25299.3, ~~25299.7~~

Reference: Health and Safety Code 25284, 25292.3

§ 2712.4 Replacing Upgrade Compliance Certificates

- a) A facility owner or operator may request replacement of a lost, stolen, or destroyed decal, file copy, tag, or strap from the local agency. The request must be in writing, signed under penalty of perjury by the requester, and include the reason for the request and any additional information as required by the local agency.
- b) A local agency may replace a decal, file copy, tag, or nylon strap to the facility owner or operator upon receipt of a written request. No replacements shall be issued if the local agency determines that the request is not due to loss, theft, or destruction of the originals.

Authority: Health and Safety Code 25299.3, ~~25299.7~~

Reference: Health and Safety Code 25284, 25292.3

§ 2712.5 Lists of Underground Storage Tank Facilities

- (a) Local agencies shall maintain lists of underground storage tank facilities that have been issued an upgrade compliance certificate. The lists shall include, but not be limited to the name and physical address of the facility, the upgrade compliance certificate number, and the name of the owner.
- (b) Local agencies shall provide copies of lists to any person upon request.

Authority: Health and Safety Code 25299.3, ~~25299.7~~
Reference: Health and Safety Code 25284, 25292.3

§ 2712.6 Prohibitions

- (a) No person shall alter an upgrade compliance certificate decal.
- (b) Unless authorized by the local agency, no person shall alter an upgrade compliance certificate file copy. The local agency may amend the file copy to reflect changes in the operating permit.
- (c) No person shall deliver petroleum to an underground storage tank without verification that the underground storage tank meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 of the Health and Safety Code. Verification may include one of the following:
 - 1) viewing an upgrade compliance certificate decal displayed at the facility and viewing a fill pipe tag attached to the tank receiving petroleum;
 - 2) obtaining written verification or list from a local agency confirming that the facility has received an upgrade compliance certificate decal and viewing a fill pipe tag attached to the tank receiving petroleum;
 - 3) obtaining an upgrade compliance certificate file copy and viewing a fill pipe tag attached to the tank receiving petroleum.

Authority: Health and Safety Code 25299.3, ~~25299.7~~
Reference: Health and Safety Code 25284, 25292.3

§ 2712.7 Sunset provisions

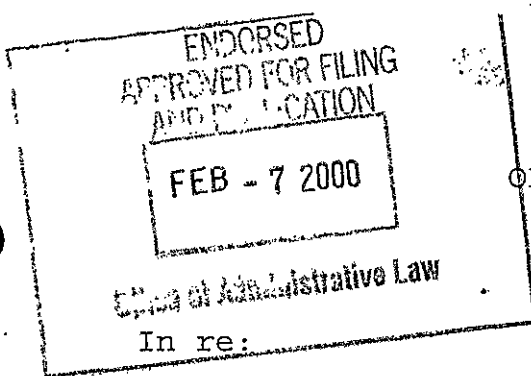
The State Water Resources Control Board, in consultation with the Secretary for Environmental Protection, shall conduct a sunset review within two years of the effective date of the regulations in this article to determine whether the regulations should be retained, revised, or repealed.

Authority: Health and Safety Code 25299.3, ~~25299.7~~

Reference: ~~Governor's Executive Order No. W 144 97, Item 1.B.~~

Health and Safety Code 25284 and 25292.3

End



STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW

ENDORSED
FILED

00 FEB -7 PM 4:23

Bill Jones
BILL JONES
SECRETARY OF STATE

WATER RESOURCES CONTROL BOARD)

REGULATORY ACTION:)

Title 23)

California Code of Regulations)

Adopt 2712.1, 2712.2, 2712.3,)

2712.4, 2712.5, 2712.6,)

2712.7; Amend 2611, 2712)

NOTICE OF REPEAL
AND DELETION

(Gov. Code, Sec. 11346.1)

OAL File No. 98-1020-01 E
Definitions

Pursuant to section 11346.1 of the Government Code, you are hereby notified that the regulatory changes (adoptions, amendments and/or repeals) made by the above described emergency regulatory action were repealed by operation of law 120 days from their effective date. This repeal occurred because the regulatory adoption process was not completed, and the rulemaking file was not submitted to the Office of Administrative Law, within 120 days of the effective date of the emergency action.

Notice is further given that the above described regulation(s), or amendment(s) thereto, will be deleted from the California Code of Regulations pursuant to provisions of section 11346.1 of the Government Code. In the event the emergency action was an amendment or order of repeal, the text of the regulation(s) as it existed prior to the amendment or order of repeal will be reprinted in the California Code of Regulations.

A copy of this notice will be filed with the Secretary of State in 7 days. If you have any questions regarding this notice, please contact DEBRA M. CORNEZ Staff Counsel at (916) 323-6831 or CalNet 473-6831.

Date: 01/31/00

Debra M Cornez
DEBRA M. CORNEZ
STAFF COUNSEL

for: CHARLENE G. MATHIAS
DEPUTY DIRECTOR

Original: Walt Petit, Executive Director
cc: Barbara Wightman



NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

98-1020-01E

See instructions on reverse

For use by Secretary of State only

For use by Office of Administrative Law (OAL) only

ENDORSED
APPROVED FOR FILING
AND PUBLICATION

OCT 27 1998

Office of Administrative Law

98 OCT 20 AM 8:39

OFFICE OF
ADMINISTRATIVE LAW

98 OCT 27 PH 3:55

SECRETARY OF STATE

NOTICE

REGULATIONS

AGENCY

AGENCY FILE NUMBER (if any)

State Water Resources Control Board

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
<input type="checkbox"/> USE ONLY <input type="checkbox"/> APPROVED FOR FILING <input type="checkbox"/> APPROVED FOR PUBLICATION <input type="checkbox"/> APPROVED FOR FILING AND PUBLICATION			

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT	Sections 2712.1 through 2712.6
	AMEND	Sections 2611, 2712
	REPEAL	
TITLE(S)	23	

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
☐ Resubmittal
☒ Emergency (Gov. Code, § 11346.1(b))
☐ Resubmittal of disapproved or withdrawn emergency filing
☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.
☐ Print Only
☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
☒ Effective on filing with Secretary of State
☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)
☐ Fair Political Practices Commission
☐ State Fire Marshal
☐ Other (Specify)

6. CONTACT PERSON

Barbara Wightman

TELEPHONE NUMBER

(916) 227-4318

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Walt Pettit

DATE

8/26/98

TYPED NAME AND TITLE OF SIGNATORY

Walt Pettit, Executive Director

EMERGENCY RULEMAKING
Title 23, Division 3, Chapter 16, Articles 1 and 10
California Code of Regulations
Underground Storage Tank Regulations

Text of Emergency Regulations

*All handwritten changes were made pursuant to agency's authorization
BMC
10-27-98*

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§ 2712 Permit Conditions

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Reference: Health and Safety Code 25284, 25285, 25286, 25288, 25289, 25292.3,
25293, 25294, 40 CFR 280.31(d), 280.33(f), 280.45, 281.32(e)
and and

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- (1) a graphic comprised of a blue background, solid white symbol in the shape of the State of California, and wavy blue lines depicting water;
 - (2) the words, "Underground Storage Tank Facility Upgrade Compliance Certificate;"
 - (3) the statement, "This upgrade compliance certificate is issued pursuant to Chapter 6.7, Section 25284 (e), California Health and Safety Code;"
 - (4) a certificate number affixed mechanically at the time of production;
- (c) A file copy shall be paper, 8 1/2 inches wide by 11 inches long, and shall contain:
- (1) in the upper right corner, a ^{certificate} number affixed at the time of production;
 - (2) an unnumbered, black and white facsimile of an upgrade compliance certificate;
 - (3) instructions to the local agency to enter the name of the owner, and facility; street address, city, and zip code of facility; facility identification number; name of issuing agency; and date of issue.
- (d) A tag shall be 3 15/16 inches long by 2 inches wide made of plastic. It shall bear a facsimile of an unnumbered decal on both sides and contain the words, "CALIFORNIA UST UPGRADE."

Authority: Health and Safety Code 25299.3, ~~25299.7~~

Reference: Health and Safety Code 25284, 25292.3

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- (a) The Board shall provide decals, file copies, tags, and nylon straps to local agencies for issuance to underground storage tank facilities.
- (b) Local agencies shall issue one decal to the owner or operator of each underground storage tank facility containing one or more petroleum underground storage tanks meeting the requirements of Section 25291

or subdivisions (d) and (e) of Section 25292 of the Health and Safety Code.

- (c) Local agencies shall issue one matching file copy of the decal to the owner or operator.
- (d) Local agencies shall issue one tag for each petroleum underground storage tank meeting the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 of the Health and Safety Code, to the owner or operator.
- (e) Local agencies shall issue one locking nylon strap, 18 inches long, for each tag issued. The strap shall be imprinted with the words, "CALIFORNIA UST UPGRADE."

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(e).

Authority: Health and Safety Code 25299.3, ~~25299.7~~

Reference: Health and Safety Code 25284, 25292.3

§ 2712.4 Replacing Upgrade Compliance Certificates

- a) A facility owner or operator may request replacement of a lost, stolen, or destroyed decal, file copy, tag, or strap from the local agency. The request must be in writing, signed under penalty of perjury by the requester, and include the reason for the request and any additional information as required by the local agency.
- b) A local agency may replace a decal, file copy, tag, or nylon strap to the facility owner or operator upon receipt of a written request. No replacements shall be issued if the local agency determines that the request is not due to loss, theft, or destruction of the originals.

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Reference: Health and Safety Code 25284, 25292.3

§ 2712.5 Lists of Underground Storage Tank Facilities

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Reference: Health and Safety Code 25284, 25292.3

§ 2712.6 Prohibitions

- (a) No person shall alter an upgrade compliance certificate decal.
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- (c) No person shall deliver petroleum to an underground storage tank without verification that the underground storage tank meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 of the Health and Safety Code. Verification may include one of the following:
 - 1) viewing an upgrade compliance certificate decal displayed at the facility and viewing a fill pipe tag attached to the tank receiving petroleum;
 - 2) obtaining written verification or list from a local agency confirming that the facility has received an upgrade compliance certificate decal and viewing a fill pipe tag attached to the tank receiving petroleum;
 - 3) obtaining an upgrade compliance certificate file copy and viewing a fill pipe tag attached to the tank receiving petroleum.

Authority: Health and Safety Code 25299.3, ~~25299.7~~
Reference: Health and Safety Code 25284, 25292.3

§ 2712.7 Sunset provisions

The State Water Resources Control Board, in consultation with the Secretary for Environmental Protection, shall conduct a sunset review within two years of the effective date of the regulations in this article to determine whether the regulations should be retained, revised, or repealed.

Authority: Health and Safety Code 25299.3, ~~25299.7~~

Reference: ~~Governor's Executive Order No. W 144-97, Item 1.B.~~

Health and Safety Code 25284 and 25292.3

End



State Water Resources Control Board

John P. Caffrey, Chairman

Peter M. Rooney
Secretary for
Environmental
Protection

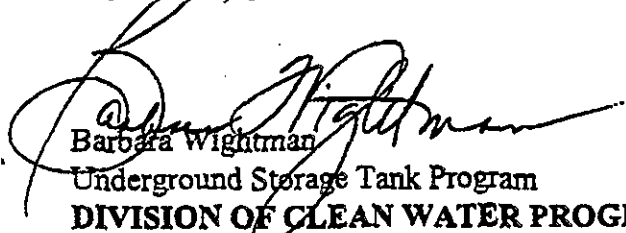
Division of Clean Water Programs
2014 T Street • Sacramento, California 95814 • (916) 227-4400 FAX (916) 227-4349
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120



Pete Wilson
Governor

TO: Debra Cornez
Office of Administrative Law
555 Capitol Mall, Suite 1290
Sacramento, CA 95814-4602

BY FACSIMILE 323-6826

FROM: 
Barbara Wightman
Underground Storage Tank Program
DIVISION OF CLEAN WATER PROGRAMS
227-4318

DATE: October 26, 1998

SUBJECT: UNDERGROUND STORAGE TANK REGULATIONS

98 OCT 26 PM 2:52
OFFICE OF
ADMINISTRATIVE LAW

Thank you for calling me to discuss some necessary changes to our underground storage tank rulemaking text. As we discussed, please make the following changes in the text:

Page 1 § 2611 Under Reference, insert "25283" between 25282 and 25284 and underscore "25299.5(a)".

Page 1 §2612 - In line one, strike out "5" and replace with "five".
- In line seven, delete the letter "s" at the end of "Sections".
- Under Reference, insert, "and" between "25293" and "25294"; insert "and" between "280.45" and "281.32(e)".

Page 2 §2612.1(c)(1) Insert "certificate" between "a" and "number".

Page 5 §2612.7 Delete "Governor's Executive Order No. W 144-97, Item 1.B." and replace with "Health and Safety Code 25284 and 25292.3".

Page 2-5 §§ 2712.1 through 2712.7 Delete "25299.7" under "Authority".

Thank you for your help. If you have any other changes, please call me at 227-4318

Attachment

California Environmental Protection Agency



Peter M. Rooney
Secretary for
Environmental
Protection

State Water Resources Control Board

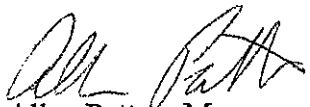
John P. Caffrey, Chairman

Division of Clean Water Programs
2014 T Street • Sacramento, California 95814 • (916) 227-4400 FAX (916) 227-4349
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120



Pete Wilson
Governor

TO: Mr. Ed Heidig, Director
Office of Administrative Law
555 Capitol Mall, Suite 1290
Sacramento, CA 95814-4602

FROM: 
Allan Patton, Manager
Underground Storage Tank Program
DIVISION OF CLEAN WATER PROGRAMS

DATE: OCT 19 1998

SUBJECT: UNDERGROUND STORAGE TANK REGULATIONS/UPGRADE
COMPLIANCE CERTIFICATES

Enclosed is an emergency rulemaking package implementing the provisions of Assembly Bill 1491 (Cunneen, Stats of 97). The package consists of the following:

1. An original and ⁶seven copies of the proposed text.
2. One copy of the Informative Digest
3. One copy of Assembly Bill 1491 (Ch. 808) containing the text of sections 25284(e) and (f) and 25292.3 of the of the Health and Safety Code.
4. Form 399 with authorized signature.
5. Form 400 with authorized signature.
6. One copy of State Water Resources Control Board Resolution No. 98-077.

The staff person assigned to this rulemaking is Barbara Wightman who may be reached at 227-4318. You may also call me at 227-4351.

RECEIVED
OFFICE OF
ADMINISTRATIVE LAW
98 OCT 19 PM 1:43

California Environmental Protection Agency

EMERGENCY RULEMAKING
Title 23, Division 3, Chapter 16, Articles 1 and 10
California Code of Regulations

**Underground Storage Tank Regulations to Implement the Provisions of
Health and Safety Code Sections 25284 (e) and (f) and Section 25292.3**

Amend Sections: 2611, 2712
Adopt Sections: 2712.1, 27112.2, 2712.3, 2712.4, 2712.5, 2712.6, 2712.7

Finding of Emergency

The adoption of the proposed regulations is necessary for the preservation of the public peace, health and safety or general welfare (Government Code Section 11346.1)

Informative Digest

In California, there are approximately 57,000 petroleum USTs located at 24,000 facilities such as gas stations, airports, school maintenance yards, military facilities, and hospitals. In order to receive petroleum deliveries after January 1, 1999, the owners of substandard UST systems must upgrade or replace them by December 22, 1998 (Health and Safety Code [H&SC] Sections 25291 and 25292 (e) and (f); California Code of Regulations [CCR] Articles 3 and 4).

On January 1, 1998, the provisions of Assembly Bill 1491 (Ch. 808, Stats. of 1997, Cunneen) became effective. The bill amended two sections of Chapter 6.7 H&SC:

Section 25284 H&SC

Subdivision (e) was added to Section 25284 to require that UST operating permits include upgrade compliance certificates and to require the State Board to determine the color and content of those certificates. This new subdivision also requires owners of UST facilities containing petroleum to display the certificates in a conspicuous location.

Subdivision (f) was added to Section 25284 to require the State Board to notify petroleum deliverers as to where they may obtain lists of upgraded facilities and to require local agencies to maintain those lists and provide them to anyone making such a request.

Section 25292.3 H&SC

This section was added to prohibit the delivery of petroleum unless the delivery person verifies, in at least one of three ways, that the facility has been issued an upgrade compliance certificate.

Existing law (Section 25284[a][1]) requires local agencies to issue operating permits to owners of USTs. While the amendments to Section 25284 require the operating permit to include an upgrade compliance certificate, they do not specify the design of the certificate, who is responsible for producing and issuing the certificate, how certificates are to be replaced, or what information must be included in the lists of facilities maintained by the local agencies.

The State Board attended meetings with industry representatives in order to craft regulatory language that would be universally acceptable. To be consistent with the statutory requirement for an upgrade certificate and at the same time satisfy the expressed needs of the industry for identification of each UST, the proposed regulations define an upgrade compliance certificate to include a self-adhesive decal, a file copy of the decal, and a plastic tag for each upgraded tank.

While the provisions of AB 1491 require facilities to display upgrade certificates, they do not require a certificate on each tank. However, in a December 11, 1997 meeting with members of the industry (California Independent Oil Marketers' Association, Western States Petroleum Association, local agency inspectors, fuel distributors, and major oil companies) it was unanimously agreed that identification of each tank is necessary. Unless the tanks themselves are tagged, the person delivering fuel cannot be sure that the tank is in compliance. At the December meeting, the State Board UST Program staff agreed to design and produce credit card-sized plastic tags and supply them to local agencies along with the window decals and file copies of the decals for distribution to tank owners.

Adoption of the proposed regulations was placed on the agenda for the regularly scheduled State Board workshop on July 8, 1998. Notice of the workshop was mailed to all concerned with an invitation to attend and comment on the proposed text. There were no comments and the adoption of the regulations was put on the calendar for the July 23, 1998 meeting at which time they were adopted by the State Board. See enclosed Resolution No. 98-077.

Effect of Proposed Action

1. Amending Section 2611 to include the definition of upgrade compliance certificate will clarify that an upgrade compliance certificate consists of three things: a numbered decal, a file copy of the decal, and a plastic fill pipe tag.
2. Amending Section 2712(c) to include an upgrade compliance certificate as part of a permit to operate an UST will implement a provision of Section 25284 (e) H&SC.
3. New Section 2712.1 will specify the color, design, and content of upgrade compliance certificates and will implement a provision of Section 25284 (e) H&SC.
4. Section 25284(e) H&SC does not specify who is responsible for producing and issuing the upgrade compliance certificates. Section 2712.2 will specify not only the content of the certificates, but that the State Board is responsible for providing those certificates to local agencies for issuance to facility owners or operators. This regulation will also specify to whom the local agency must issue the certificates and under what circumstances the certificates may be issued.

5. New Section 2712.3 will specify that the decal must be visible to a person delivering fuel and that the tag must be attached to the UST's fill pipe.
6. New Section 2712.4 will specify under what circumstances certificates may be replaced and that the local agency is responsible for replacement.
7. New Section 2712.5 will implement a provision of Section 25284(f) by specifying the information to be included in the lists of upgraded facilities required to be maintained by local agencies and that the local agencies must provide copies of the lists to any person who asks for them.
8. New Section 2712.6 will identify two prohibitions related to upgrade certificates: unauthorized alteration of the upgrade certificate, and delivering petroleum to a nonupgraded UST. This section will also specify how a person may verify that a UST has been upgraded.

Comparable Federal Regulation or Statute

Federal law (40 CFR 280.21) requires USTs to be upgraded by December 22, 1998; however, there is no federal statute or rule prohibiting fuel delivery or requiring an upgrade certificate program.

Need for Immediate Action

Local agencies have only four months to inspect facilities and issue certificates. The regulations must be adopted immediately so procedures may be set in place for issuing the certificates. If the procedures are not immediately put into effect, some local agencies may not have the time necessary to complete the certification process by the deadline.

Failure by local agencies to issue the certificates would result in those tanks not being able to receive fuel beginning January 1, 1999, which would impact public health and safety.

Mandate on local agencies or school districts, cost or savings to state or local agencies or school districts, nondiscretionary costs or savings imposed on local agencies; costs or savings in federal funding to the state:

None

CALIFORNIA 1997 LEGISLATIVE SERVICE
1997 Portion of 1997-98 Regular Session

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Additions are indicated by << + Text + >>; deletions by
<< - * * * - >>. Changes in tables are made but not highlighted.

CHAPTER 808

A.B. No. 1491

ENVIRONMENT--HAZARDOUS WASTES--PETROLEUM UNDERGROUND STORAGE TANKS

AN ACT to amend Sections 25284 and 25299.50 of, and to add Section 25292.3 to, the Health and Safety Code, relating to hazardous substances.

[Approved by Governor October 8, 1997.]

[Filed with Secretary of State October 9, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1491, Cunneen. Hazardous substances: petroleum underground storage tanks.

(1) Under existing law, with specified exceptions, no person may own or operate an underground storage tank containing hazardous substances unless a permit for its operation has been issued by the local agency to the owner or operator of the tank, or a unified program facility permit has been issued by the local agency to the owner or operator of the unified program facility on which the tank is located. Existing law requires an underground storage tank permit to require compliance with certain design and construction requirements and allows a permit to include a schedule of compliance, when necessary, to allow a reasonable opportunity to comply with certain applicable requirements or regulations.

This bill would delete the provision allowing the permit to include a schedule of compliance and would instead require a permit issued for a petroleum underground storage tank system that meets specified requirements to include an upgrade compliance certificate, as prescribed, that documents that the petroleum underground storage tank system meets those requirements. The bill would require the owner to place the certificate in a conspicuous location that can be readily viewed by any person depositing petroleum into the underground storage tank system.

The bill would require the State Water Resources Control Board, by December 22, 1998, to notify all persons that may deliver petroleum to an underground storage tank of where they can obtain a list of underground storage tank facilities that have been issued an upgrade compliance certificate.

The bill would prohibit any person on or after January 1, 1999, from depositing petroleum into an underground storage tank system unless the underground storage tank system meets those described requirements. The bill would require a person depositing petroleum into such an underground storage tank system to verify that the system meets those requirements by taking one of specified actions.

(2) Under existing law, the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, every owner of an underground storage tank for which a permit is required is required to pay a specified storage fee for each gallon of petroleum placed in the tank. The fees are required to be deposited in the Underground Storage Tank Cleanup Fund. The money in the fund may be expended by the board, upon appropriation by the Legislature, for various purposes, including the costs of implementing the act, payment of a California regional water quality control board's or local agency's corrective action costs, and the payment of claims to aid owners

and operators of petroleum underground storage tanks who take corrective action to clean up unauthorized releases from those tanks. The board is required to provide a letter of credit authorizing the payment of corrective action costs from the fund to a claimant whose cost estimate for corrective action has been approved by the board.

This bill would allow the board to reallocate to other corrective action claims any funds appropriated in the annual Budget Act for the payment of a corrective action claim that is encumbered pursuant to a letter of credit but is not expended. The bill would require the board to make a report at least once every 3 months to specified committees of the Legislature and to the Director of Finance on the implementation of those provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 25284 of the Health and Safety Code is amended to read:

< < CA HLTH & S § 25284 > >

25284. (a)(1) Except as provided in < < +subdivision+ > > (c) < < -* * *- > >, no person shall own or operate an underground storage tank unless a permit for its operation has been issued by the local agency to the owner or operator of the tank, or a unified program facility permit has been issued by the local agency to the owner or operator of the unified program facility on which the tank is located.

(2) If the operator is not the owner of the tank, or if the permit is issued to a person other than the owner or operator of the tank, the permittee shall ensure that both the owner and the operator of the tank are provided with a copy of the permit.

(3) If the permit is issued to a person other than the operator of the tank, that person shall do all of the following:

(A) Enter into a written agreement with the operator of the tank to monitor the tank system as set forth in the permit.

(B) Provide the operator with a copy or summary of Section 25299 in the form < < +that+ > > the board specifies by regulation.

(C) Notify the local agency of any change of operator.

(b) Each local agency shall prepare a form < < +that+ > > provides for the acceptance of the obligations of a transferred permit by any person who is to assume the ownership of an underground storage tank from the previous owner and is to be transferred the permit to operate the tank. That person shall complete the form accepting the obligations of the permit and submit the completed form to the local agency within 30 days < < -* * *- > > < < +from the date that+ > > the ownership of the underground storage tank is to be transferred. A local agency may review and modify, or terminate, the transfer of the permit to operate the underground storage tank, pursuant to the criteria specified in subdivision (a) of Section 25295, upon receiving the completed form.

(c) Any person assuming ownership of an underground storage tank used for the storage of hazardous substances for which a valid operating permit has been issued shall have 30 days < < +from+ > > the date of assumption of ownership to apply for an operating permit pursuant to Section 25286 or, if accepting a transferred permit, shall submit to the local agency the completed form accepting the obligations of the transferred permit, as specified in subdivision (b). During the period from the date of application until the permit is issued or refused, the person shall not be held to be in violation of this section.

< < -* * *- > >

< < +(d)+ > > A permit issued pursuant to this section shall apply and require compliance with all applicable regulations adopted by the board pursuant to Section 25299.3.

< < +(e)+ > > A permit issued for a petroleum underground storage tank system that meets the requirements of

Section 25291 or subdivisions (d) and (e) of Section 25292 and related regulations adopted pursuant to Section 25299.3 shall include an upgrade compliance certificate, the color, size, and content of which shall be specified by the board, that documents that the petroleum underground storage tank system meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 and related regulations. The owner shall place the upgrade compliance certificate in a conspicuous location that can be readily viewed by any person depositing petroleum into the underground storage tank system. + > >

< < + (f) On or before December 22, 1998, the board shall notify all persons that may deliver petroleum to an underground storage tank of where they can obtain a list of underground storage tank facilities that have been issued an upgrade compliance certificate. Local agencies shall maintain a list of underground storage tank facilities that have been issued an upgrade compliance certificate and shall provide this information to anyone requesting it. + > >

SEC. 2. Section 25292.3 is added to the Health and Safety Code, to read:

< < CA HLTH & S § 25292.3 > >

25292.3. (a) On and after January 1, 1999, no person shall deposit petroleum into an underground storage tank system unless the underground storage tank system meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 and related regulations adopted pursuant to Section 25299.3.

(b) Any person depositing petroleum into an underground storage tank system shall verify that the system meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292, and related regulations adopted pursuant to Section 25299.3, by taking one of the following actions:

(1) Viewing the upgrade compliance certificate for the petroleum underground storage tank system displayed pursuant to subdivision (e) of Section 25284.

(2) Obtaining written verification from the local agency that the petroleum underground storage tank system is on a list maintained by a local agency pursuant to subdivision (f) of Section 25284.

(3) Obtaining a correct copy of the upgrade compliance certificate from the owner or operator of the petroleum underground storage tank system.

SEC. 3. Section 25299.50 of the Health and Safety Code is amended to read:

< < CA HLTH & S § 25299.50 > >

25299.50. (a) The Underground Storage Tank Cleanup Fund is hereby created in the State Treasury < < - * * * - > > < < +. The money in the fund + > > may be expended by the board, upon appropriation by the Legislature, for < < - * * * - > > purposes of this chapter. From time to time, the board may modify existing accounts or create accounts in the fund or other funds administered by the board, which the board determines are appropriate or necessary for proper administration of this chapter.

(b) All of the following amounts shall be deposited in the fund:

(1) Money appropriated by the Legislature for deposit in the fund.

(2) The fees, interest, and penalties collected pursuant to Article 5 (commencing with Section 25299.40).

(3) Notwithstanding Section 16475 of the Government Code, any interest earned upon the money deposited in the fund.

(4) Any money recovered by the fund pursuant to Section 25299.70.

(5) Any civil penalties collected by the board or regional board pursuant to Section 25299.76.

< < +(c) Notwithstanding subdivision (a), any funds appropriated by the Legislature in the annual Budget Act for payment of a claim for the costs of a corrective action in response to an unauthorized release, that are encumbered for expenditure for a corrective action pursuant to a letter of credit issued by the board pursuant to subdivision (e) of Section 25299.57, but are subsequently not expended for that corrective action claim, may be reallocated by the board for payment of other claims for corrective action pursuant to Section 25299.57. The board shall report at least once every three months on the implementation of this subdivision to the Senate Committee on Budget and Fiscal Review, the Senate Committee on Environmental Quality, the Assembly Committee on Budget, and the Assembly Committee on Environmental Safety and Toxic Materials, or to any successor committee, and to the Director of Finance. + > >

CA LEGIS 808 (1997)

END OF DOCUMENT

STATE OF CALIFORNIA

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

.399 (Rev. 2-96)

See SAM Sections 6600 - 6880 for Instructions and Code Citations

DEPARTMENT NAME State Water Resources Control Board	CONTACT PERSON Barbara Wightman	TELEPHONE NUMBER (916) 227-4318
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Underground Storage Tank Regulations - Upgrade Compliance Certificate Program		NOTICE FILE NUMBER Z

ECONOMIC IMPACT STATEMENT**A. ESTIMATED PRIVATE SECTOR COST IMPACTS** (Include calculations and assumptions in the rulemaking record.)

1. Check the appropriate box(es) below to indicate whether this regulation:

- | | |
|---|--|
| <input type="checkbox"/> a. Impacts businesses and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance standards |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.) |

h. (cont.) _____

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: 0 Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

Enter the number of businesses that will be created: 0 eliminated: _____

Explain: _____

4. Indicate the geographic extent of impacts: ☐ Statewide ☐ Local or regional (list areas): n/a5. Enter the number of jobs created: 0 or eliminated: _____ Describe the types of jobs or occupations impacted: _____

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

☐ Yes ☒ No If yes, explain briefly: _____**B. ESTIMATED COSTS** (Include calculations and assumptions in the rulemaking record.)1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 0

- | | | |
|--|--------------------------------|--------------|
| a. Initial costs for a small business: \$ _____ | Annual ongoing costs: \$ _____ | Years: _____ |
| b. Initial costs for a typical business: \$ _____ | Annual ongoing costs: \$ _____ | Years: _____ |
| c. Initial costs for an individual: \$ _____ | Annual ongoing costs: \$ _____ | Years: _____ |
| d. Describe other economic costs that may occur: _____ | | |

ECONOMIC AND FISCAL IMPACT STATEMENT *cont. (STD. 399, Rev. 2-98)*2. If multiple industries are impacted, enter the share of total costs for each industry: n/a3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *(Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.):* \$ n/a4. Will this regulation directly impact housing costs? ☐ Yes ☒ No If yes, enter the annual dollar cost per housing unit: \$ _____ and the number of units: _____5. Are there comparable Federal regulations? ☐ Yes ☒ No Explain the need for State regulation given the existence or absence of Federal regulations: _____Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0**C. ESTIMATED BENEFITS** *(Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)*1. Briefly summarize the benefits that may result from this regulation and who will benefit: n/a2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? \$ 0**D. ALTERNATIVES TO THE REGULATION** *(Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)*1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: n/a

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: \$ _____	Cost: \$ _____
Alternative 1:	Benefit: \$ _____	Cost: \$ _____
Alternative 2:	Benefit: \$ _____	Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

n/a4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ Yes ☐ NoExplain: n/a**E. MAJOR REGULATIONS** *(Include calculations and assumptions in the rulemaking record.)**Cal/EPA boards, offices and departments are subject to the following additional requirements per Health and Safety Code section 57005.*

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 2-98)

Will the estimated costs of this regulation to California business enterprises exceed \$10 million? ☐ Yes ☐ No (If No, skip the rest of this section)

2. Briefly describe each equally as effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation:	\$ _____	Cost-effectiveness ratio: _____
Alternative 1:	\$ _____	Cost-effectiveness ratio: _____
Alternative 2:	\$ _____	Cost-effectiveness ratio: _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years)

☐ 1. Additional expenditures of approximately \$ 0 _____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

☐ a. is provided in (Item _____, Budget Act of _____) or (Chapter _____, Statutes of _____)

☐ b. will be requested in the _____ Governor's Budget for appropriation in Budget Act of _____
(FISCAL YEAR)

☐ 2. Additional expenditures of approximately \$ _____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

☐ a. implements the Federal mandate contained in _____

☐ b. implements the court mandate set forth by the _____
court in the case of _____ vs. _____

☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____
election; (DATE)

☐ d. is issued only in response to a specific request from the _____
_____, which is/are the only local entity(s) affected;

☐ e. will be fully financed from the _____ authorized by Section _____
(FEES, REVENUE, ETC.)
_____ of the _____ Code;

☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit.

☐ 3. Savings of approximately \$ _____ annually.

☐ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT *cont. (STD. 399, Rev. 2-98)*☒ 5. No fiscal impact exists because this regulation does not affect any local entity or program.☐ 6. Other.**B. FISCAL EFFECT ON STATE GOVERNMENT** *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*☐ 1. Additional expenditures of approximately \$_____ in the current State Fiscal Year. It is anticipated that State agencies will:☐ a. be able to absorb these additional costs within their existing budgets and resources.☐ b. request an increase in the currently authorized budget level for the _____ fiscal year.☐ 2. Savings of approximately \$_____ in the current State Fiscal Year.☒ 3. No fiscal impact exists because this regulation does not affect any State agency or program.☐ 4. Other.**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*☐ 1. Additional expenditures of approximately \$_____ in the current State Fiscal Year.☐ 2. Savings of approximately \$_____ in the current State Fiscal Year.☒ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.☐ 4. Other.

SIGNATURE



TITLE

Executive Director

AGENCY SECRETARY ¹

APPROVAL/CONCURRENCE

PROGRAM BUDGET MANAGER

DEPARTMENT OF FINANCE ²

APPROVAL/CONCURRENCE

DATE

DATE

1. The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6600-6680, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

2. Finance approval and signature is required when SAM sections 6600-6670 require completion of the Fiscal Impact Statement in the STD. 399.

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 98 - 077

EMERGENCY RULEMAKING TO IMPLEMENT THE
PROVISIONS OF ASSEMBLY BILL 1491
(Ch. 808, Cunneen, Stats. of 1997)

WHEREAS:

1. Section 25299.3 of Chapter 6.7, Health and Safety Code (H&SC) authorizes the SWRCB to adopt regulations to implement the provisions of Chapter 6.7 relating to underground storage tanks (USTs).
2. Section 25284 of Chapter 6.7 H&SC was amended by Assembly Bill 1491 (Ch. 808, Cunneen, Stats. of 1997) to require: 1) operating permits for petroleum USTs to include upgrade compliance certificates; 2) owners of petroleum USTs to display an upgrade compliance certificate in a conspicuous location; 3) the State Board to inform suppliers where they may obtain lists of upgraded facilities; and, 4) local agencies to maintain lists of upgraded facilities and provide copies of those lists upon request.
3. Section 25292.3 was added to Chapter 6.7 H&SC by Assembly Bill 1491 to:
1) prohibit the delivery of petroleum to a non-upgraded petroleum USTs; and, 2) require anyone delivering petroleum to verify that the USTs have been upgraded before delivery of the fuel.
4. Regulations are adopted to implement, interpret, and make specific the provisions of law.
5. Adding a definition of "upgrade compliance certificate" to Section 2611 of existing UST regulations interprets and makes specific the requirements of Sections 25284 and 25292.3 H&SC.
6. Amending Section 2712 to include the requirement that an upgrade compliance certificate be included with a permit to operate an underground storage tank implements, interprets, and makes specific the requirements of Section 25284 H&SC.
7. Adopting Sections 2712.1 through 2712.6 will implement, interpret, and make specific the provisions of Section 25292.3 H&SC.

THEREFORE BE IT RESOLVED THAT:

The State Water Resources Control Board adopts emergency amendments to Sections 2611 and 2712, and adopts Sections 2712.1 through 2712.6, Chapter 16, Title 23 of the California Code of Regulations as follows:

Section 2611 is amended as follows:

"Upgrade compliance certificate" consists of a numbered decal, file copy of the decal, and plastic fill pipe tag as described in Section 2712.1 of these regulations.

Section 2712 is amended as follows:

- (c) A permit to operate issued by the local agency shall be effective for five years. In addition to other information specified by the local agency, the permit shall include the permit expiration date, monitoring requirements, and the state underground storage tank identification number(s) for which the permit was issued. Where a facility contains petroleum underground storage tanks meeting the upgrade requirements of Sections 25291 or subdivisions (d) and (e) of Section 25292 of the Health and Safety Code, the permit shall include an upgrade compliance certificate. Before a local agency issues a new permit or renewal to operate an underground storage tank, the local agency shall inspect the underground storage tank and determine that it complies with the provisions of these regulations."

Sections 2712.1 through 2712.6 are adopted as follows:

2712.1. Content of Upgrade Compliance Certificates

- (a) An upgrade compliance certificate includes one decal as described in subdivision (b), one file copy of the decal as described in subdivision (c), and one tag for each tank storing petroleum as described in subdivision (d) of this section.
- (b) A decal shall have an adhesive-backing and shall be 5 inches wide by 8 inches long containing:
- (1) a graphic comprised of a blue background, solid white symbol in the shape of the State of California, and wavy blue lines depicting water;
 - (2) the words, "Underground Storage Tank Facility Upgrade Compliance Certificate;"
 - (3) the statement, "This upgrade compliance certificate is issued pursuant to Chapter 6.7, Section 25284 (e), California Health and Safety Code;"
 - (4) a certificate number affixed mechanically at the time of production;
- (c) A file copy shall be 8 1/2 inches wide by 11 inches long, and shall contain:
- (1) in the upper right corner, a number affixed at the time of production;
 - (2) an unnumbered, black and white facsimile of an upgrade compliance certificate;
 - (3) instructions to the local agency to enter the name of the owner and facility; street address, city, and zip code of facility; facility identification number; name of issuing agency; and date of issue.

- (d) A tag shall be 3 15/16 inches long by 2 inches wide made of plastic, bearing a facsimile of an unnumbered decal on both sides and contain the words, "CALIFORNIA UST UPGRADE."

2712.2 Issuing Upgrade Compliance Certificates

- (a) The Board shall provide decals, file copies, tags, and nylon straps to local agencies for issuance to underground storage tank facilities.
- (b) Local agencies shall issue one decal to the owner or operator of each underground storage tank facility containing one or more petroleum underground storage tanks meeting the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 of the Health and Safety Code.
- (c) Local agencies shall issue one matching file copy of the decal to the owner or operator.
- (d) Local agencies shall issue one tag for each petroleum underground storage tank meeting the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 of the Health and Safety Code to the owner or operator.
- (e) Local agencies shall issue one nylon strap, 18 inches long, for each tag issued. The strap, provided by the Board, shall be imprinted with the words, "California UST Upgrade."

2712.3 Displaying Upgrade Compliance Certificates

- (a) A decal shall be displayed at a facility in a location visible to the person delivering petroleum to an underground storage tank.
- (b) A tag shall be attached, using a nylon strap described in Section 2712.2 (c), to the fill pipe of each underground storage tank.

2712.4 Replacing Upgrade Compliance Certificates

- (a) A facility owner or operator may request replacement of a lost, stolen, or destroyed decal, file copy, tag, or strap from the local agency. The request must be in writing, signed under penalty of perjury by the requester, and include the reason for the request and any additional information required by the local agency.
- (b) A local agency may replace a decal, file copy, tag, or nylon upon receipt of a written request. No replacements shall be issued if the local agency determines that the request is not due to loss, theft, or destruction of the originals.

2712.5 Lists of Underground Storage Tank Facilities

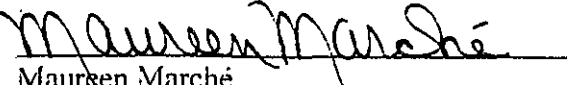
- (a) Local agencies shall maintain lists of underground storage tank facilities that have been issued an upgrade compliance certificate. The lists shall include, but not be limited to the name and physical address of the facility, the upgrade compliance certificate number, and the name of the owner.
- (b) Local agencies shall provide copies of lists to any person upon request.

2712.6 Prohibitions

- (a) Unless authorized by the local agency, no person shall alter an upgrade compliance certificate. The local agency may amend the file copy to reflect changes in the operating permit.
- (b) No person shall deliver petroleum to an underground storage tank without verification that the underground storage tank meets the requirements of Section 25291 or subdivisions (d) and (e) of Section 25292 of the Health and Safety Code. Verification may include one of the following:
 - (1) viewing an upgrade compliance certificate decal displayed at the facility and viewing a fill pipe tag attached to the tank receiving petroleum;
 - (2) obtaining written verification or list from a local agency confirming that the facility has received an upgrade compliance certificate decal and viewing a fill pipe tag attached to the tank receiving petroleum;
 - (3) obtaining an upgrade compliance certificate file copy and viewing a fill pipe tag attached to the tank receiving petroleum.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on July 23, 1998.


Maureen Marché
Administrative Assistant to the Board